IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.Rev.Pet.No. 2841 of 2007()

CRA.370/04 OF THE ADDL.SESSIONS JUDGE, FAST TRACK COURT NO.II ADHOC, THRISSUR

C.C. NO. 660 OF 2000 OF THE J.F.C.M., IRINJALAKKUDA

REVN. PETITIONER: APPELLANTS/ACCUSED:

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1. SREEDHARAN, S/O.PUDUSSERI KUNJIRAMAN, PORUNNAMKUNNU, ALOOR, MUKUNDAPURAM TALUK.

2. SHANMUGHAN, S/O. THESSERI KRISHNAN, THAZHEKKAD, MUKUNDAPURAM TALUK.

3. SOMAN, S/O. POYYAMPARAMBIL KARAPPAN, PORUNNAKKUNNU, ALOOR, MUKUNDAPURAM TALUK.

4. MOHANAN, S/O. MUNDASSERI KORAN, ALOOR, MUKUNDAPURAM TALUK.

BY ADV. SRI.PHILIP T.VARGHESE

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING THE SUB INSPECTOR OF POLICE, KODAKARA.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 2841 of 2007

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Dated, this the 2nd day of August 2007

ORDER

The revision petitioners, four in number, who were the accused in C.C. 660 of 2000 on the file of the J.F.C.M., Irinjalakuda challenge the conviction entered and the sentence passed against them for an offence punishable under Sec. 3(2)(e) of the Prevention of Damage to public Property Act, 1984. The conviction and sentence has been concurrently passed against them.

2. The case of the prosecution can be summarised as follows:-

On 20-3-2000 the CPI(ML) party had declared a hartal. It was declared in protest against the proposed arrival of the American President to India. At about 9 a.m. on the said date the accused who were members of the CPI (ML) with the intention of destroying public property pelted stones at a K.S.R.T.C. bus bearing Reg. No. 15-2429 (TN 407) at Aloor railway gate and broke the windshield on the front and the glasses on the rear side of the bus causing a loss of Rs. 5,000/- to the K.S.R.T.C. The accused have thereby committed an offence punishable under Section 3(2) (e) of Prevention of Damage to Public Property Act, 1984.

3. On the side of the prosecution six witnesses were examined as P.Ws 1 to 6 and three documents were marked as Exts.P1 to P3. Out of them, P.Ws 3 and 5 supported the prosecution whereas the others turned hostile. The accused denied the incriminating circumstances in the prosecution evidence.

4. The learned Magistrate as per judgment dated 16-6-2004 found the revision petitioners guilty of the offence charged against them and sentenced them each to rigorous imprisonment for six months and also to pay a fine of Rs. 1,500/- and on default to the fine, to suffer rigorous imprisonment for a period of one month. The said judgment was appealed against as Crl.A. 370/2004 before the Addl. Sessions Judge Fast Track Court No. II (Adhoc), Thrissur which dismissed the appeal confirming the conviction entered and sentence passed against the revision petitioner. It is the concurrent conviction and sentence which are assailed in this revision.

5. Eventhough the learned counsel appearing for the revision petitioners assailed the conviction recorded against them, I do not not think that this Court sitting in revision will interfere with the conviction recorded by the courts below after an evaluation of the oral and documentary evidence in the case. The conviction is accordingly confirmed.

6. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioners. While destruction of public property is to be deprecated and deserves condign punishment, having regard to the facts and circumstances of the case, I do not think that penal servitude by way of incarceration is warranted. I am of the view that interests of justice will be adequately met by directing the revision petitioners to undergo imprisonment till rising of the court and to pay an appropriate fine. Accordingly, if their conviction under Section 3(2) (e) of the Prevention of Damage to Public Property Act, each of the revision petitioners shall undergo imprisonment till rising of the court and shall also pay a fine of Rs. 3,000/- and on default to pay the fine, to suffer

simple imprisonment for one month. Out of the fine amount as and when realised, a sum of Rs. 1,500/- shall be paid by each of the revision petitioners to the Managing Director, K.S.R.T.C. by way of compensation under Sec. 357 (1) Cr.P.C. for the destruction caused to the K.S.T.C. bus.

This revision is disposed of as above. The fine amount shall be paid within one month from today.

V. RAMKUMAR,
(JUDGE)

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